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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

YOUNG YIL JO,
BOP #01183-112,

Plaintiff,

vs.

SIX UNKNOWN NAMES AGENTS;
BARACK OBAMA, President of the United
States,

Defendants.

Civil No. 13cv0393 BEN (KSC)

**ORDER DISMISSING CIVIL
ACTION WITHOUT PREJUDICE
FOR FAILING TO PAY
FILING FEE REQUIRED
BY 28 U.S.C. § 1914(a) AND/OR
FAILING TO MOVE TO PROCEED
IN FORMA PAUPERIS
PURSUANT TO
28 U.S.C. § 1915(a)**

Plaintiff, a Federal Bureau of Prisons inmate currently incarcerated at CI Big Spring, located in Big Spring, Texas, and proceeding pro se, has filed an illegible one-page complaint entitled "Civil Rights Action with the Writ of Summons and Complaint" "under 42 U.S.C. § 1983" (ECF No. 1).

I. Failure to Pay Filing Fee or Request IFP Status

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$350. See 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay this filing fee only if the party is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C.

1 § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v. Cook*,
 2 169 F.3d 1176, 1177 (9th Cir. 1999).

3 Plaintiff has not prepaid the \$350 filing fee required to commence a civil action, nor has
 4 he submitted a Motion to Proceed IFP pursuant to 28 U.S.C. § 1915(a). Therefore, the case
 5 cannot yet proceed. *See* 28 U.S.C. § 1914(a); *Andrews*, 493 F.3d at 1051.

6 **II. Conclusion and Order**

7 For the reasons set forth above, the Court hereby:

8 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$350
 9 filing fee or file a Motion to Proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and 1915(a); and

10 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is filed to:
 11 (a) prepay the entire \$350 civil filing fee in full; *or* (b) complete and file a Motion to Proceed
 12 IFP which includes a certified copy of his trust account statement for the 6-month period
 13 preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).¹

14 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff with this
 15 Court's approved form "Motion and Declaration in Support of Motion to Proceed *In Forma*
 16 *Pauperis*." If Plaintiff fails to either prepay the \$350 civil filing fee or complete and submit the
 17 enclosed Motion to Proceed IFP within that time, this action shall remain dismissed without
 18 prejudice and without further Order of the Court.

19
 20 DATED: 2/28/2013


 21 HON. ROGER T. BENITEZ
 22 United States District Judge
 23
 24

25 ¹ Plaintiff is cautioned that if he chooses to proceed further with this action either by paying the
 26 full civil filing fee required by 28 U.S.C. § 1914(a), or moving to proceed IFP, his Complaint, which is
 27 currently comprised of a single illegible paragraph of incomprehensible legal jargon seeking unspecified
 28 relief against unidentified "agents" and the President of the United States, will be screened and
 immediately dismissed as frivolous pursuant to 28 U.S.C. § 1915A(b) and 28 U.S.C. § 1915(e)(2)(b).
See Lopez v. Smith, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e)
 "not only permits but requires" the court to sua sponte dismiss an *in forma pauperis* complaint that fails
 to state a claim); *see also Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010) (discussing sua
 sponte screening required by 28 U.S.C. § 1915A(b) of all prisoner complaints).